vector, and host cell, classified in classes 435 and 536, subclasses 320.1, 325, and 252.3; and 23.1, respectively;

Group II, claim 6, drawn to a method for determining the presence of a breast specific nucleic acid (BSNA) in a sample, classified in class 435, subclass 6;

Group III, claim 9, drawn to a method for producing a polypeptide, classified in class 435, subclass 70.1;

Group IV, claims 10 and 11, drawn to a polypeptide, classified in class 530, subclass 350;

Group V, claim 12, drawn to an antibody, classified in class 530, subclass 387.1;

Group VI, claim 13, drawn to a method for determining the presence of a breast specific protein in a sample using an antibody, classified in class 435, subclass 7.1;

Group VII, claims 14 and 15, drawn to a method and kit for diagnosing and monitoring the presence and metastases of breast cancer in a patient, classified in class 436 and subclass 64;

Group VIII, claim 16, drawn to a method for treating a patient with breast cancer, classified in class 514, subclasses 2 and 44; and

Group IX, claim 17, drawn to a vaccine, classified in classes 424, 536 and 530, subclasses 184.1, 23.1 and 350,

respectively.

Further, the Examiner suggests that each Group above reads on patentably distinct sequences and Applicants must elect a single amino acid/polypeptide sequence or nucleotide sequence.

The Examiner suggests that Groups [I, II, III, VII, IX], [IV, VII, IX] and [V, VI and VII] are distinct inventions because they are directed to different chemical types or methods regarding the critical limitations therein. The Examiner has acknowledged the above-bracketed groups to be related as product and process of use. However, the Examiner suggests that these Groups are distinct because the processes can be practiced with other products. Further, the Examiner suggests that these Groups have acquired a separate status in the art as set forth by the Examiner in the different classifications.

Applicants respectfully traverse this restriction requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any

references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all the claims, at least when limited to an elected nucleic acid or polypeptide is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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